THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No: 402 of 2006

DATED: 06.01.2006

Between:

M. Aruna

… PETITIONER

AND

The Joint Collector,

Nellore & others.

… RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 402 of 2006

ORDER:-

This writ petition is filed to declare the order of the 1st respondent passed in Rc.E.9/2006, dated 02.01.2006, rejecting to stay the operation of the order of the 2nd respondent passed in Rc.J.6386/2004, dated 24.12.2005, pending appeal before the 1st respondent, as illegal, arbitrary and contrary to the provisions of A.P. Public Distribution System Control Order, 2001.

The petitioner is a fair price shop dealer. Initially, the dealership of the petitioner was suspended, pending enquiry, by an order, dated 18.12.2004 on the allegation that there are certain variations and differences with regard to the distribution of essential commodities. Thereafter, proceedings under Section 6A of the Essential Commodities Act (for short "the Act") also initiated.

Aggrieved by the said order of suspension, the petitioner filed an appeal before the 1st respondent along with stay petition. As the 1st respondent did not pass any orders, the petitioner filed WP.No.24914 of 2004 before this Court. This Court disposed of the writ petition by an order, dated 30.12.2004, directing the 1st respondent, the appellate authority, to dispose of the appeal. In pursuant to the orders of this Court, the 1st respondent disposed of the appeal directing the 2nd respondent to complete the enquiry with in four weeks and pass final orders. Accordingly, the 2nd respondent issued a show cause notice, dated 02.12.2005, for which the petitioner filed her explanation on 16.12.2005.

While issuing the show cause notice, the 2nd respondent has framed two charges. The first charge is that variation of 656 Kgs PDS rice was found in excess and two liters of kerosene was found deficit. The second charge is that variation of 562.530 quintals of SGRY rice was found less in physical variation for the year 2003-2004. It is stated that both the charges were not proved and in fact the said SGRY rice was distributed to the beneficiaries without presentation of concerned coupons.

Heard the learned counsel appearing for the petitioner and the learned

Government Pleader for Civil Supplies.

It is the specific case of the petitioner that in fact the said rice was distributed in the presence of the peoples representatives of ZPTC, MPTC and the concerned officials, as the coupons were not issued to all the beneficiaries, the question of misappropriation or diversion of the said rice in to black market does not arise.

The only allegation made against the petitioner is that the said SGRY rice was distributed to the concerned persons without obtaining the coupons. Therefore, I am of the opinion that the charges are not serious and vague in nature and the Joint Collector, who is the appellate authority, before whom the cancellation order, dated 24.12.2005, was challenged, ought to have granted stay instead of rejecting the same by issuing the impugned order.

Having regard to the facts and circumstances of the case, as the charges are not grave and serious in nature, and in the absence of any specific allegation that the rice was not distributed to the people, it cannot be said that the petitioner has committed serious irregularities. Therefore, the impugned order is set aside and the order of the 2nd respondent cancelling the authorization of the petitioner stands stayed, pending disposal of the appeal, and the appellate authority is directed to dispose of the appeal after giving reasonable opportunity to the petitioner in accordance with law.

Accordingly, the writ petition is allowed. No order as to costs.

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06.01.2006

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